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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,671	06/26/2006	Kristof De Spiegeleer	6142-00504	5006
35690	7590	05/28/2009		
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C. P.O. BOX 398 AUSTIN, TX 78767-0398			EXAMINER CALLAHAN, PAUL E	
			ART UNIT 2437	PAPER NUMBER
			NOTIFICATION DATE 05/28/2009	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patent\_docketing@intprop.com  
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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/584,671	DE SPIEGELEER, KRISTOF	
	<b>Examiner</b>	<b>Art Unit</b>	
	PAUL CALLAHAN	2437	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 26 June 2006.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-18 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 26 June 2006 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8-26-08</u> .   | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

1. Claims 1-18 are pending and have been examined.

### ***Oath/Declaration***

2. As per the Applicant's Transmittal Letter filed 6-26-06, page 2, line 11, no Oath or Declaration was filed with the instant Application, and a request for the Patent Office to send a Notice of Missing Parts, Filing Date Granted be sent to the Applicant. It appears that no such notice has been sent by the Office. Therefore it appears that no Oath or Declaration has been filed in the Application.

The Applicant is required to submit a new Oath or Declaration, or provide evidence that an Oath or Declaration was submitted with the international application in accordance with PCT Rule 4.17(iv). See MPEP 1893.01(e): Oath/Declaration.

### ***Priority***

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 6 and 17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The preamble of each claim indicates that they are directed towards a computer-program that directs a processor to undertake the method steps of independent base claims 1 and 9 respectively. However, neither of claims 6 or 17, or their base claims contain a limitation directed towards the computer-program being stored in a tangible, computer-readable storage medium. Therefore claims 6 and 17 set forth only functional descriptive language and is non-statutory since this does not fall into one of the classes of invention eligible for the grant of a US patent. Unless embodied in a computer-readable medium the software in and of itself cannot be considered as a computer component, and hence cannot effect a change of state of a processor to produce a useful or tangible result. From 2106.01: Computer-Related Nonstatutory Subject Matter: *Descriptive material can be characterized as either “functional descriptive material” or “nonfunctional descriptive material.” In this context, “functional descriptive material” consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of “data structure” is “a physical or logical relationship among data elements, designed to support specific data manipulation functions.” The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) “Nonfunctional descriptive material” includes but is not limited to music, literary works, and a compilation or mere arrangement of data. Both types of “descriptive material” are nonstatutory when claimed as descriptive material per se, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive*

*material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases.*

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-18 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Farber et al., US 5,978,791. Farber teaches:

As for claim 1, a method for identifying the content of a file in a network environment (abstract), said network environment comprising at least one local computing device linked to a remaining part of the network environment including a central infrastructure (fig. 1(a), col. 4 line 63 through col. 5 line 35), and the method comprising calculating a reference value for a new file on one of said at least one local computing devices using a one-way-function (col. 14 lines 1-31), transmitting said calculated reference value to said central infrastructure (col. 16 lines 38-62, col. 23 line 52 through col. 24 line 29), comparing said calculated reference value with reference values previously stored within the remaining part of the network environment (col. 16 lines 38 through col. 17 line 10, col. 23 line 52 through col. 24 line 29), after comparing, deciding that the content of the new file is already identified if a match between said

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calculated reference value and a previously stored reference value is found and retrieving the corresponding content attributes (col. 14 line 40 through col. 15 line 10, col. 23 line 52 through col. 24 line 29, col. 25 lines 26-45 ); or deciding that the content of the new file is not yet identified if no match between said calculated reference value and any of the previously stored reference values is found (col. 14 line 40 through col. 15 line 10, col. 23 line 52 through col. 24 line 29), followed by sharing the new file on the local computing device to said central infrastructure and said central infrastructure identifying the content of said new file by remotely identifying the content over the network environment (col. 23 line 52 through col. 24 line 29, col. 25 lines 26-45), determining content attributes corresponding with the content of the new file and storing a copy of said content attributes (col. 25 lines 26-45), after deciding, triggering an action on said local computing device in accordance with said content attributes (col. 25 lines 26-45).

As for claim 2, a method according to claim 1, wherein said triggering an action on said local computing device in accordance with said content attributes is performed after transmitting the content attributes corresponding to the new file to the local computing device (col. 25 lines 26-45).

As for claim 3, a method according to claim 1 wherein said identifying the content of said new file comprises one or more of the group of scanning for viruses, scanning

for adult content, scanning for Self Promotional Advertising Messages and scanning for copyrighted information, using a scanning means installed on said central infrastructure (col. 34 lines 33-43).

As for claim 4, a method according to claim 1, furthermore comprising storing a copy of the new file on the central infrastructure (col. 25 lines 26-45).

As for claim 5, a method according to claim 1, wherein said triggering an action on said local computing device in accordance with said content attributes may comprise replacement of the new file on the local computing device with another version of said new file restored from the remaining part of the network environment. (col. 25 lines 26-45).

As for claim 6, a computer program product for executing the method of claim 1 when executed on a network (col. 4 line 58 through col. 5 line 16).

As for claim 7, the claim represents the system carrying out the method of claim 1. Claim 7 recites substantially the same limitations as claim 1 and is rejected on the same basis as that claim.

As for claim 8, a system according to claim 7 furthermore comprising means for storing a copy of the new file within the remaining part (col. 4 line 58 through col. 5 line 24).

As for claim 9, a method for altering a system for identifying the content of a file in a network environment (abstract), said network environment comprising means for calculating a one-way function (col. 12 lines 54-60), at least one local computing device linked to a remaining part of the network environment including a central infrastructure and means for identifying the content and said remaining part including a stored database (col. 4 line 58 through col. 5 line 60), the method comprising altering said means for identifying the content or said means for calculating a one-way function (col. 14 lines 1-31, col. 16 lines 38-62, col. 23 line 52 through col. 24 line 29), scanning the remaining part of the network environment for reference values calculated with a one-way function for each of said reference values (col. 16 line 10 through col. 17 line 10), requesting a file that corresponds with said reference value from said network environment identifying the content of said file (col. 16 line 38 through col. 17 line 10), and determining content attributes corresponding with the content of the file and storing a copy of said content attributes sending the content attributes to every local computing device containing the file after sending (col. 23 line 53 through col. 24 line 29, col. 25 line 25-45); triggering an action on said local computing device in accordance with said content attributes (col. 25 lines 25-45).

As for claim 10, a method according to claim 9, wherein said scanning the remaining part of the network environment for reference values calculated with a one-way function comprises scanning the remaining part of the network environment for reference values, calculated with a one-way function, said reference values being generated after a predetermined date (col. 35 lines 10-28).

As for claim 11, a method according to claim 9, wherein said method furthermore comprises, for each of said reference values, sending the file to means for identifying the content (col. 23 line 54 through col. 24 line 28).

As for claim 12, a method according to claim 9, wherein said method furthermore comprises, for each of said reference values, sharing the file to the means for identifying the content and remotely identifying the content of the file over the network (col. 23 line 54 through col. 24 line 28).

As for claim 13, a method according to claim 9, wherein said sending the content attributes to every local computing device containing the file, may comprise identifying every local computing device containing the file using a stored database sending the content attributes to said identified local computing devices (col. 23 line 54 through col. 24 line 28).

As for claim 14, a method according to claim 9 wherein sending the content attributes to said identified local computing devices comprises, for each of said identified local computing devices not connected to said network, creating an entry in a waiting list and sending the content attributes to said identified local computing devices in agreement with said entry on said waiting list when the local computing devices are reconnected to the network (col. 43 lines 9-15: Offline processors are queried on reconnection, therefore a queue is inherent to the system).

As for claim 15 a method according to claim 9 wherein, requesting a file that corresponds with said reference value from said network environment comprises, if no local computing device having said file that corresponds with said reference value is connected to the network, creating an entry in a waiting list and requesting a file that corresponds with said reference value from said local computing device in agreement with said entry when the local computing device is reconnected to said network (col. 43 lines 9-15: Offline processors are queried on reconnection, therefore a queue is inherent to the system).

As for claim 16, a method according to claim 9, wherein said method furthermore comprises identifying whether the content attributes correspond with unwanted content and, if so, identifying the local computing device that first introduced said unwanted content in the network based on data stored in said database (col. 34 lines 33-43).

As for claim 17, a computer program product for executing the method as claimed in claim 9 when executed on a network (col. 4 line 58 through col. 5 line 16).

As for claim 18, a machine readable data storage device storing the computer program product of claim 17 (col. 4 line 58 through col. 5 line 16).

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul E. Callahan whose telephone number is (571) 272-3869. The examiner can normally be reached on M-F from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Emmanuel Moise, can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is: (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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/Emmanuel L. Moise/  
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